

## JOURNAL OF THE HOUSE.

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Tuesday, March 30, 2004.

Met according to adjournment, at twelve o'clock noon, with Mr. O'Flaherty of Chelsea in the Chair (having been appointed by the Speaker, under authority conferred by Rule 5, to perform the duties of the Chair).

Prayer was offered by the Reverend Robert F. Quinn, C.S.P., Chaplain of the House, as follows:

God, Our Creator, we believe that we live each moment of the day in Your presence and Your care for us is constant. We look to You for guidance and direction as we evaluate and address the issues on the daily legislative calendar. Your assistance enables us to comprehend more clearly the positive benefits and the unintended consequences of our personal legislative choices. Inspire us to select those legislative options which are honest, relevant, just and ethical. As elected leaders, help us to build trust, hope and confidence in You, in each other and in the goodwill of so many people throughout this Commonwealth. Teach us to appreciate and follow the guidelines which You have made known to us and offer personal happiness, successful living and peace of mind.

Prayer.

Grant Your blessings to the Speaker, the members and employees of this House and their families. Amen.

At the request of the Chair (Mr. O'Flaherty), the members, guests and employees joined with him in reciting the pledge of allegiance to the flag.

Pledge of  
allegiance.

### *Resolutions.*

The following resolutions (filed with the Clerk) were referred, under Rule 85, to the committee on Rules:

Resolutions (filed by Ms. Peisch of Wellesley) congratulating John Giannuzzi on receiving the Eagle Award of the Boy Scouts of America;

John  
Giannuzzi.

Resolutions (filed by Ms. Peisch of Wellesley) congratulating Christopher Haley on receiving the Eagle Award of the Boy Scouts of America; and

Christopher  
Haley.

Resolutions (filed by Mr. Swan of Springfield) congratulating Captain Marjorie A. Fonza on the occasion of her retirement;

Marjorie A.  
Fonza.

Mr. Petrolati of Ludlow, for the committee on Rules, reported, in each instance, that the resolutions ought to be adopted. Under suspension of the rules, in each instance, on motion of Mrs. Paulsen of Belmont, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

### *Reports of Committees.*

By Mr. Scaccia of Boston, for the committee on Rules and the committees on Rules of the two branches, acting concurrently, that

Commonwealth  
property,—  
lease.

Joint Rule 12 be suspended on the petition of Walter F. Timilty for legislation to authorize the Division of Capital Asset Management and Maintenance to lease the Max Ulin Skating Rink located in the town of Milton. Under suspension of the rules, on motion of Mr. Bosley of North Adams, the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on State Administration. Sent to the Senate for concurrence.

Cigarette  
fire safety  
standards.

By Mr. Toomey of Cambridge, for the committee on Public Safety, on a petition, a Resolve relative to fire safety standards for cigarettes (House, No. 3580) [Senators Barrios and Chandler and Representative Malia of Boston dissenting]. Read; and referred, under Joint Rule 29, to the committees on Rules of the two branches, acting concurrently.

Clinical  
laboratory  
science  
practitioners.

By Mr. Dempsey of Haverhill, for the committee on Science and Technology, that the Bill to provide for the licensing and regulation of clinical laboratory science practitioners and for related purposes (House, No. 2805) ought to pass. Referred, under Rule 33, to the committee on Ways and Means.

Protective  
custody.

By Mr. Toomey of Cambridge, for the committee on Public Safety, on a petition, a Bill relative to persons in protective custody (House, No. 4179). Read; and referred, under Rule 33, to the committee on Local Affairs and Regional Government on the part of the House.

Disabled  
Persons  
Commission.

By Mr. Cabral of New Bedford, for the committee on Human Services and Elderly Affairs, on a petition, a Bill relative to the authority of the Disabled Persons Protection Commission pursuant to Chapter 19C (House, No. 2068).

Women,—  
civil  
commitment.

By the same member, for the same committee, on a petition, a Bill relative to the civil commitment of women for alcoholism or substance abuse at a certain facility (House, No. 2816).

Jurors,—  
examination.

By Mr. O'Flaherty of Chelsea, for the committee on the Judiciary, on a petition, a Bill relative to the examination of jurors (House, No. 783).

Clinton  
District  
Court.

By the same member, for the same committee, on a petition, a Bill providing for two additional probation clerks in the Clinton District Court (House, No. 1138).

Money  
orders.

By the same member, for the same committee, on a petition, a Bill relative to money orders under the abandoned property law (House, No. 1524).

Norfolk  
Probate  
Court.

By the same member, for the same committee, on a petition, a Bill providing for the appointment of a deputy assistant registrar in the Norfolk probate court (House, No. 1707).

Gerald F.  
Warren.

By the same member, for the same committee, on a petition, a Bill relative to the employee benefits of a certain employee of the Trial Court (House, No. 2271).

Notaries  
public.

By the same member, for the same committee, on a petition, a Bill granting authority over notary publics to the Secretary of State (House, No. 4595).

By Mr. Toomey of Cambridge, for the committee on Public Safety, on a petition, a Bill relative to certain volunteers (House, No. 4224). Volunteer firefighters.

Severally read; and referred, under Rule 33, to the committee on Ways and Means.

By Mr. Toomey of Cambridge, for the committee on Public Safety, on a petition, a Bill regulating the use of recording devices in motor vehicles (House, No. 4439). Read; and referred, under Rule 33B, to the committee on Science and Technology. Vehicles,—recording devices.

By Mr. O'Flaherty of Chelsea, for the committee on the Judiciary, on a petition, a Bill relative to the health insurance of children of divorced parents (House, No. 1135). Read; and referred, under Rule 33C, to the committee on Medicaid. Children,—health care.

By Mr. Toomey of Cambridge, for the committee on Public Safety, on a petition, a Bill relative to certain tanks used for the storage of fluids (House, No. 2132). Read; and referred, under Rule 33D, to the committee on Homeland Security and Federal Affairs. Storage tanks.

By Mr. O'Flaherty of Chelsea, for the committee on the Judiciary, on House, Nos. 90 and 94, a Bill making the uniform the law regarding trade secrets (House, No. 94). Trade secrets.

By the same member, for the same committee, on a petition, a Bill providing visitation rights for great grandparents (House, No. 384). Great grandparents.

By the same member, for the same committee, on a petition, a Bill relative to certain proceedings relating to corporations (House, No. 734). Corporations.

By the same member, for the same committee, on a petition, a Bill relative to membership of the Criminal Justice Committee (House, No. 759). Criminal Justice Committee.

By the same member, for the same committee, on a petition, a Bill relative to the warrant management system (House, No. 765). Warrant management.

By the same member, for the same committee, on Senate, No. 1024 and House, No. 784, a Bill relative to providing for the equitable apportionment of certain liens (House, No. 784). Personal injury liens.

By the same member, for the same committee, on a petition, a Bill relative to the allocation of costs incurred in personal injury protection litigation (House, No. 786). Personal injury litigation.

By the same member, for the same committee, on a petition, a Bill relative to the fees of justices of the peace for performing marriages (House, No. 929). Justices of the Peace.

By the same member, for the same committee, on a petition, a Bill relative to the admittance of attorneys to court facilities (House, No. 938). Attorneys,—courts.

By the same member, for the same committee, on a petition, a Bill to prevent animal fighting (House, No. 1131). Animal fighting.

By the same member, for the same committee, on a petition, a Bill relative to the use of telephones in places of detention (House, No. 1132). Jails,—phones.

Restraining orders.

Joseph Coleman,— sick leave bank.  
Winchendon District Court.

Guide dogs.

Kevin J. Welch,— sick leave bank.

Minors,— identity.

Breast feeding.

Veterans' graves.

Trustees.

Alimony.

Id.

Hyde Park,— Kearney Bridge.

Hyde Park,— Geraghty Bridge.

Bill enacted.

Third reading bill.

Third

By the same member, for the same committee, on a petition, a Bill authorizing the service of faxed copies of restraining orders as legal documents (House, No. 1901).

By the same member, for the same committee, on a petition, a Bill establishing a sick leave bank for a certain employee of the trial court of the commonwealth (House, No. 2270).

By the same member, for the same committee, on a petition, a Bill relative to the Winchendon District Court (House, No. 2638).

By the same member, for the same committee, on a petition, a Bill relative to damages for harmed assistance animals (House, No. 2829).

By the same member, for the same committee, on a petition, a Bill establishing a sick leave bank for Kevin J. Welch, an employee of the trial court (House, No. 2994).

By the same member, for the same committee, on a petition, a Bill protecting a minor's identity (House, No. 2997).

By the same member, for the same committee, on a petition, a Bill permitting breast-feeding in public (House, No. 3358).

By the same member, for the same committee, on a petition, a Bill relative to veterans' graves protection (House, No. 3673).

By the same member, for the same committee, on a petition, a Bill relative to the attachment of goods and recoveries by defendants in certain trustee actions (House, No. 3675).

By the same member, for the same committee, on a petition, a Bill to increase flexibility in alimony orders (House, No. 4479).

By the same member, for the same committee, on a petition, a Bill to allow temporary alimony orders in modification proceedings (House, No. 4480).

By Mr. Wagner of Chicopee, for the committee on Transportation, on a petition, a Bill designating a certain bridge in Hyde Park as the Joseph M. Kearney Bridge (House, No. 293).

By the same member, for the same committee, on a petition, a Bill designating a certain bridge in Hyde Park as the Thomas J. Geraghty Bridge (House, No. 294).

Severally read; and referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

#### *Engrossed Bill.*

The engrossed Bill providing for the annual observance of Armenian-American Heritage Month (see House, No. 2695) (which originated in the House), having been certified by the Clerk to be rightly and truly prepared for final passage, was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

#### *Orders of the Day.*

The Senate Bill authorizing the Commissioner of the Division of Capital Asset Management and Maintenance to convey certain land to Thayer Academy in the town of Braintree (Senate, No. 2178) (its title having been changed by the committee on Bills in the Third Reading), reported by said committee to be correctly drawn, was read a third time; and it was passed to be engrossed, in concurrence.

The House Bill relative to the school committee of the city of Chelsea (House, No. 4410), reported by the committee on Bills in the Third Reading to be correctly drawn, was read a third time; and it was passed to be engrossed. Sent to the Senate for concurrence.

#### *Recess.*

At nine minutes after twelve o'clock noon, the Chair (Mr. O'Flaherty of Chelsea) declared a recess until five minutes before one o'clock P.M.; and at twelve minutes after one o'clock the House was called to order with Mr. Correia of Fall River in the Chair.

#### *Joint Session of the Two Houses to Consider Specific Amendments to the Constitution.*

At fourteen minutes past one o'clock P.M., the two Houses met in

#### JOINT SESSION

and were called to order by the Honorable Robert E. Travaglini, President of the Senate.

The President, members, guests and employees then recited the pledge of allegiance to the flag.

The Proposal for a Legislative Amendment to the Constitution relative to increasing the term of the General Court from two to four years (Senate, No. 352),— was then read twice in accordance with the provisions of the special rules.

The Proposal was as follows:—

#### ARTICLE OF AMENDMENT.

"Article LXIV of the Amendments to the Constitution amended by Article LXXX and Article LXXII Amendments, is hereby annulled, and the following is adopted in place thereof:—

SECTION 1. Article LXIV. The Governor, lieutenant-governor, secretary, treasurer and receiver-general, attorney general, auditor, senators, and representatives shall be elected quadrennially, and counselors shall be elected biennially. The terms the governor and lieutenant-governor shall begin at noon Thursday next following the first Wednesday in January succeeding their election and shall end at noon on the Thursday following the first Wednesday in January in the fifth year following their election. If the governor-elect shall have died before the qualification of the lieutenant-governor-elect, the lieutenant-governor-elect upon qualification shall become governor. If both the governor-elect and the lieutenant-governor-elect shall have died, both said offices shall be deemed vacant and the provisions of Article LV of the Amendments to the Constitution shall apply. The terms of the secretary, treasurer and receiver-

general, attorney general, and auditor shall begin with the third Wednesday in January succeeding their election and shall extend to the third Wednesday in January in the fifth year following their election and until their successors are chosen and qualified. The terms of the councilors shall begin at noon on the Thursday next following the first Wednesday in January succeeding their election and shall end at noon on the Thursday next following the first Wednesday in January in the third year following their election. The terms of senators and representatives shall begin with the first Wednesday in January succeeding their election and shall extend to the first Wednesday in January in the fifth year following their election and until their successors are chosen and qualified.

SECTION 2. The general court shall assemble every year on the first Wednesday in January.

SECTION 3. The first election to which this article shall apply shall be held on the Tuesday next after the first Monday in November in the year two thousand and two, and thereafter elections for the choice of governor, lieutenant-governor, auditor, secretary, treasurer and receiver-general, attorney general, auditor, senators, and representatives shall be held quadrennially on the Tuesday next after the first Monday in November and elections for the choice of councilors shall be held biennially on the Tuesday next after the first Monday in November."

Quorum.

Pending the question on ordering the proposal to a third reading, at seventeen minutes past one o'clock P.M., Mr. Jones of North Reading doubted the presence of a quorum and asked for a call of the yeas and nays to ascertain if a quorum was present. The President, having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum at seventeen minutes past one o'clock P.M., as follows to wit, (Answered Present 188) [**Senate Yeas and Nays No. 503**] [**House Yeas and Nays No. 575**]:

ANSWERED "PRESENT" — (188).

*Senators.*

Baddour, Steven A.	Montigny, Mark C.
Barrios, Jarrett T.	Moore, Richard T.
Berry, Frederick E.	Morrissey, Michael W.
Brewer, Stephen M.	Murray, Therese
Brown, Scott P.	Nuciforo, Andrea F., Jr.
Chandler, Harriette L.	O'Leary, Robert A.
Creedon, Robert S., Jr.	Pacheco, Marc R.
Creem, Cynthia Stone	Panagiotakos, Steven C.
Fargo, Susan C.	Resor, Pamela
Glodis, Guy W.	Rosenberg, Stanley C.
Hart, John A., Jr.	Shannon, Charles E.
Havern, Robert A.	Sprague, Jo Ann
Hedlund, Robert L.	Tarr, Bruce E.
Joyce, Brian A.	Tisei, Richard R.
Knapik, Michael R.	Tolman, Steven A.
Lees, Brian P.	Travaglini, Robert E.
Magnani, David P.	Tucker, Susan C.
McGee, Thomas M.	Walsh, Marian
Menard, Joan M.	Wilkerson, Dianne — 38.

*Representatives.*

Asselin, Christopher P.	Harkins, Lida E.
Atkins, Cory	Hill, Bradford
Atsalis, Demetrius J.	Hillman, Reed V.
Ayers, Bruce J.	Honan, Kevin G.
Balser, Ruth B.	Howland, Mark A.
Binienda, John J.	Humason, Donald F., Jr.
Blumer, Deborah D.	Hynes, Frank M.
Bradley, Garrett J.	Jehlen, Patricia D.
Broadhurst, Arthur J.	Jones, Bradley H., Jr.
Buoniconti, Stephen J.	Kafka, Louis L.
Cabral, Antonio F. D.	Kane, Michael F.
Callahan, Jennifer M.	Kaprielian, Rachel
Canavan, Christine E.	Kaufman, Jay R.
Candaras, Gale D.	Keenan, Daniel F.
Carron, Mark J.	Kelly, Shaun P.
Casey, Paul C.	Kennedy, Thomas P.
Ciampa, Vincent P.	Khan, Kay
Connolly, Edward G.	Knuutila, Brian
Correia, Robert	Kocot, Peter V.
Costello, Michael A.	Koczera, Robert M.
Coughlin, Robert K.	Koutoujian, Peter J.
Creedon, Geraldine	Kujawski, Paul
DeLeo, Robert A.	Kulik, Stephen
deMacedo, Viriato Manuel	Lantigua, William
Demakis, Paul C.	Larkin, Peter J.
Dempsey, Brian S.	Leary, James B.
DiMasi, Salvatore F.	LeDuc, Stephen P.
Donato, Paul J.	Lepper, John A.
Donelan, Christopher J.	Linsky, David Paul
Donovan, Carol A.	L'Italien, Barbara A.
Driscoll, Joseph R.	Loscocco, Paul J. P.
Eldridge, James B.	Malia, Elizabeth A.
Evangelidis, Lewis G.	Mariano, Ronald
Fagan, James H.	Marzilli, J. James, Jr.
Fallon, Christopher G.	Miceli, James R.
Falzone, Mark V.	Murphy, Charles A.
Fennell, Robert F.	Murphy, James M.
Festa, Michael E.	Murphy, Kevin J.
Finegold, Barry R.	Nangle, David M.
Finneran, Thomas M.	Naughton, Harold P., Jr.
Flynn, David L.	Nyman, Robert J.
Fox, Gloria L.	O'Brien, Thomas J.
Fresolo, John P.	O'Flaherty, Eugene L.
Frost, Paul K.	Parente, Marie J.
Galvin, William C.	Patrick, Matthew C.
Garry, Colleen M.	Paulsen, Anne M.
George, Thomas N.	Pedone, Vincent A.
Gifford, Susan Williams	Peisch, Alice Hanlon
Gobi, Anne M.	Perry, Jeffrey Davis
Goguen, Emile J.	Petersen, Douglas W.
Golden, Brian Paul	Peterson, George N., Jr.
Golden, Thomas A., Jr.	Petrolati, Thomas M.
Gomes, Shirley	Petrucelli, Anthony
Grant, Mary E.	Pignatelli, Smitty William
Greene, William G., Jr.	Poirier, Elizabeth
Haddad, Patricia A.	Polito, Karyn E.
Hall, Geoffrey D.	Pope, Susan W.
Hargraves, Robert S.	Quinn, John F.

Reinstein, Kathi-Anne  
 Rivera, Cheryl A.  
 Rodrigues, Michael J.  
 Ruane, J. Michael  
 Rush, Michael F.  
 Rushing, Byron  
 Sánchez, Jeffrey  
 Scaccia, Angelo M.  
 Scibak, John W.  
 Smizik, Frank I.  
 Speliotis, Theodore C.  
 Spellane, Robert  
 Spiliotis, Joyce A.  
 Spilka, Karen  
 Stanley, Harriett L.  
 Stanley, Thomas M.  
 St. Fleur, Marie P.  
 Story, Ellen  
 Straus, William M.

Sullivan, David B.  
 Swan, Benjamin  
 Teahan, Kathleen M.  
 Timilty, Walter F.  
 Tobin, A. Stephen  
 Toomey, Timothy J., Jr.  
 Torrisi, David M.  
 Travis, Philip  
 Turkington, Eric  
 Vallee, James E.  
 Verga, Anthony J.  
 Wagner, Joseph F.  
 Wallace, Brian P.  
 Walrath, Patricia A.  
 Walsh, Martin J.  
 Walsh, Steven Myles  
 Webster, Daniel K.  
 Wolf, Alice K. — 153.

NAYS — (0).

ABSENT OR NOT VOTING — (8).

*Senators.*

Antonioni, Robert A.

Melconian, Linda J. — 2.

*Representatives.*

Bosley, Daniel E.  
 Coppola, Michael J.  
 Owens-Hicks, Shirley

Rogeness, Mary S.  
 Rogers, John H.  
 Simmons, Mary Jane — 6.

The yeas and nays having been completed at twenty-eight minutes past one o'clock P.M., a quorum was declared present.

The Proposal for a Legislative Amendment to the Constitution relative to increasing the term of the General Court from two to four years (Senate, No. 352),— was further considered, the question on ordering the proposal to a third reading.

After remarks, Mr. Moore moved that the matter be referred to a Special Committee of the Joint Session (under Special Rule F) comprising of the members of the joint committee on Elections Laws; and this motion prevailed.

The Proposal for a Legislative Amendment to the Constitution relative to emergency appointments of elected officials (Senate, No. 355),— was then read twice in accordance with the provisions of the special rules.

The Proposal was as follows:—

ARTICLE OF AMENDMENT.

“The Constitution of the Commonwealth is hereby amended by striking out Article LXXXIII of the Amendments to the Constitution, and inserting in place thereof the following Article of Amendment:—

Article LXXXIII. The general court shall have full power and authority to provide for prompt and temporary succession to the powers and duties of public offices, of whatever nature and whether filled by election or appointment, the incumbents of which may become unavailable for carrying on the powers and duties of such offices in periods of emergency resulting from disaster caused by enemy or terrorist attack, and to adopt such other measures as may be necessary and proper for insuring continuity of the government of the commonwealth and the governments of its political subdivisions; except that, notwithstanding Article XXX of Part the First, if more than 1/3 of the senate or more than 1/3 of the house membership is vacant as a result of enemy or terrorist attack, the governor shall fill the vacancies by appointment, and in making the appointments he shall fill each vacancy with a person who is a resident of the district where the vacancy occurred and is of the same political party as the person who held the office at the time the vacancy occurred. A person so appointed shall serve until a successor is elected and qualified in accordance with the provisions for filling vacancies in the general court.”

After remarks, Mr. Moore moved that the matter be referred to a Special Committee of the Joint Session (under Special Rule F) comprising of the members of the joint committee on Elections Laws; and this motion prevailed.

The Proposal for a Legislative Amendment to the Constitution relative to promoting the representative character of ballot questions (Senate, No. 362),— was then read twice in accordance with the provisions of the special rules.

The Proposal was as follows:—

ARTICLE OF AMENDMENT.

“Article XLVIII of the amendments to the Constitution is hereby amended in that part of said article XLVIII under the heading ‘The Initiative. II. Initiative Petitions’ in section three by:

Striking the words: “shall be submitted to the attorney-general not later than the first Wednesday of the August before” and replacing them with the following:— “shall be submitted to the attorney-general not later than the first Wednesday of the June before”, and is further amended by:

Striking the words: ‘it may then be filed with the secretary of the Commonwealth’ and replacing them with the following:— ‘it may then be filed with a Ballot Question Title And Summary Statement Commission, the membership and operations of which will be provided for in the general laws. Said Commission will receive draft titles and summaries from the attorney general for use on the state ballot and petition forms and prepare final titles and summaries for use by the state secretary.’, and is further amended by:

Striking the words: ‘a fair, concise summary, as determined by the attorney-general’ and replacing them with the following:— ‘a fair, concise summary, as determined by the Ballot Question Title And Summary Statement Commission’, and is further amended by:

Striking the words: 'not earlier than the first Wednesday of September' and replacing them with the following:— 'not earlier than the third Wednesday of July'.

Article XLVIII of the amendments to the Constitution is hereby further amended in that part of said article XLVIII under the heading 'The Initiative. IV. Legislative Action on Proposed Constitutional Amendments' in section two by:

Striking the words: 'in the aggregate by not less than such number of voters as will equal three percent of the entire vote cast for governor at the preceding biennial state election' and replacing them with the following:— 'in the aggregate by not less than such number of voters as will equal three percent of the number of registered voters during the preceding biennial state election and including such number of voters as will be equal to two per cent of the number of registered voters in each Congressional district during the preceding biennial state election'

Article XLVIII of the amendments to the Constitution is hereby further amended in that part of said article XLVIII under the heading 'The Initiative. V. Legislative Action on Proposed Laws' in section one by:

Striking the words: 'in the aggregate by not less than such number of voters as will equal two and one-half percent of the number of registered voters during the preceding biennial state election and including such number of voters as will be equal to one and one-half per cent of the number of registered voters in each Congressional district during the preceding biennial state election'

Article XLVIII of the amendments to the Constitution is hereby further amended in that part of said article XLVIII under the heading 'The Initiative. V. Legislative Action on Proposed Laws' in section two by:

Striking the words: 'a number of signatures of qualified voters equal in number to not less than one-half of one per cent of the entire vote cast for governor at the preceding biennial state election' and replacing them with the following:— 'a number of signatures of qualified voters equal in number to not less than one-half of one per cent of the number of registered voters during the preceding biennial state election'."

Pending the question on ordering the proposal to a third reading, Ms. Story of Amherst moved that the matter be placed at the end of the calendar; and there being no objection, the matter was placed at the end of the calendar.

The Proposal for a Legislative Amendment to the Constitution relative to the election of judges (Senate, No. 1065),— was then read twice in accordance with the provisions of the special rules.

The Proposal was as follows:—

#### ARTICLE OF AMENDMENT.

"Part 2, c. 3, Article I of the Constitution is hereby amended by striking Article I and inserting in place thereof the following new language:

Article I. The tenure that all commission officers shall by law have in their office, shall be expressed in their respective commissions. All judicial officers, duly appointed, commissioned and sworn, shall hold their offices for a period of six years. After the expiration of the initial six year term, the judicial officer, if he or she so chooses, shall have his or her name placed upon the ballot, in the County where they have been seated for the majority of the six years, for a vote of affirmation. If the judicial officer chooses not to place his/her name upon the ballot his/her term shall immediately end and he or she cannot be considered for appointment to any judicial position. If the judicial officer's name is placed upon the ballot and receives a majority vote of all votes cast he or she shall be reappointed for an additional six-year period. If the judicial officer fails to receive a majority vote he or she shall not be eligible for reappointment to any judicial position. Should the judicial officer receive a vote of affirmation he or she will be eligible for a reappointment in like manner every six years thereafter. Provided however, the Governor, with the consent of the Council, may remove the judicial officer upon the address of both houses of the legislature and provided also, that the Governor, with the consent of the Council, may after due notice and hearing retire them because of advanced age or mental or physical disability; and provided further, that upon attaining seventy years of age said judges shall be retired. Such retirement shall be subject to any provisions made by law as to pensions or allowances payable to such officers upon their voluntary retirement.

The Clerk Magistrate in the County where a judicial officer's name is placed on the ballot, shall publish the judicial officer's sentencing and bail setting record on all Federal Bureau of Investigation Part I offenses for the previous six years in all County newspapers, on public access television channels within said County and post in all County courthouses. This shall be published a minimum of three weeks prior to the judicial officer's name being placed on the ballot.

Immediately upon ratification of this amendment to the Massachusetts Constitution, all judicial officers who are presently judges shall have their names placed on the ballot in the County where they are presently seated at the first state-wide election for a vote of affirmation."

After remarks, Mr. Creedon moved to amend the proposal by striking out the text and inserting in place thereof the following text:—

"SECTION 1. Section I of chapter II of Part the Second of the Constitution is hereby amended by striking out Article IX and inserting in place thereof the following Article:—

Article IX. The solicitor-general, coroners, and judicial officers except judges shall be nominated and appointed by the governor, by and with the advice and consent of the council. In order to promote accountability to the fullest extent and to ensure that judges reflect the values of the people, all judges shall be nominated and appointed by the governor, by and with the advice and consent of the senate. Every nomination under this article shall be made by the governor at least seven days prior to such appointment. The senate shall not consider any such nomination unless the joint committee on the judiciary of the general court, or another committee designated by

the general court, reports favorably on the nomination, after a public hearing.

SECTION 2. The second sentence of Article I of chapter III of said Part the Second is hereby amended by inserting after the word 'council', the first time it appears, the following words:— , except in the case of judges.

SECTION 3. Said second sentence of said Article I of said chapter III of said Part the Second is hereby further amended by inserting after the word 'council', the second time it appears, the following words:— , but in the case of judges with the consent of the senate,."

After remarks, the amendment was adopted.

The same Senator then moved that the matter be referred to a Special Committee of the Joint Session (under Special Rule F) comprising of the members of the joint committee on The Judiciary.

The question on adoption of the motion to commit the matter to a Special Committee of the Joint Session was determined by a call of the yeas and the nays, at one minute past two o'clock P.M., as follows to wit (yeas 166 — nays 28) **[Senate Yeas and Nays No. 504] [House Yeas and Nays No. 576]:**

ANSWERED "PRESENT" — (166).

*Senators.*

Antonioni, Robert A.	Menard, Joan M.
Baddour, Steven A.	Montigny, Mark C.
Berry, Frederick E.	Morrissey, Michael W.
Brown, Scott P.	Murray, Therese
Chandler, Harriette L.	Pacheco, Marc R.
Creedon, Robert S., Jr.	Panagiotakos, Steven C.
Creem, Cynthia Stone	Resor, Pamela
Fargo, Susan C.	Rosenberg, Stanley C.
Glodis, Guy W.	Shannon, Charles E.
Hart, John A., Jr.	Sprague, Jo Ann
Havern, Robert A.	Tarr, Bruce E.
Hedlund, Robert L.	Tisei, Richard R.
Joyce, Brian A.	Tolman, Steven A.
Knapik, Michael R.	Travaglini, Robert E.
Lees, Brian P.	Tucker, Susan C.
Magnani, David P.	Walsh, Marian
McGee, Thomas M.	Wilkerson, Dianne — 35.
Melconian, Linda J.	

*Representatives.*

Atkins, Cory	Carron, Mark J.
Balser, Ruth B.	Ciampa, Vincent P.
Blumer, Deborah D.	Connolly, Edward G.
Bosley, Daniel E.	Coppola, Michael J.
Bradley, Garrett J.	Correia, Robert
Broadhurst, Arthur J.	Costello, Michael A.
Buoniconti, Stephen J.	Coughlin, Robert K.
Cabral, Antonio F. D.	Creedon, Geraldine
Callahan, Jennifer M.	DeLeo, Robert A.
Candaras, Gale D.	deMacedo, Viriato Manuel

Demakis, Paul C.	Loscocco, Paul J. P.
Dempsey, Brian S.	Malia, Elizabeth A.
DiMasi, Salvatore F.	Mariano, Ronald
Donato, Paul J.	Marzilli, J. James, Jr.
Donelan, Christopher J.	Murphy, Charles A.
Donovan, Carol A.	Murphy, James M.
Driscoll, Joseph R.	Murphy, Kevin J.
Eldridge, James B.	Naughton, Harold P., Jr.
Evangelidis, Lewis G.	Nyman, Robert J.
Fagan, James H.	O'Brien, Thomas J.
Fallon, Christopher G.	O'Flaherty, Eugene L.
Falzone, Mark V.	Owens-Hicks, Shirley
Fennell, Robert F.	Parente, Marie J.
Festa, Michael E.	Paulsen, Anne M.
Finegold, Barry R.	Peisch, Alice Hanlon
Finneran, Thomas M.	Perry, Jeffrey Davis
Fox, Gloria L.	Petersen, Douglas W.
Fresolo, John P.	Peterson, George N., Jr.
Frost, Paul K.	Petrucelli, Anthony
Galvin, William C.	Poirier, Elizabeth
Gifford, Susan Williams	Polito, Karyn E.
Gobi, Anne M.	Pope, Susan W.
Golden, Brian Paul	Quinn, John F.
Gomes, Shirley	Rivera, Cheryl A.
Grant, Mary E.	Rodrigues, Michael J.
Haddad, Patricia A.	Rogers, John H.
Hargraves, Robert S.	Ruane, J. Michael
Harkins, Lida E.	Rush, Michael F.
Hill, Bradford	Rushing, Byron
Hillman, Reed V.	Sánchez, Jeffrey
Honan, Kevin G.	Scaccia, Angelo M.
Howland, Mark A.	Scibak, John W.
Humason, Donald F., Jr.	Smizik, Frank I.
Hynes, Frank M.	Spellane, Robert
Jehlen, Patricia D.	Spilka, Karen
Jones, Bradley H., Jr.	Stanley, Harriett L.
Kafka, Louis L.	Stanley, Thomas M.
Kane, Michael F.	St. Fleur, Marie P.
Kaprielian, Rachel	Story, Ellen
Kaufman, Jay R.	Straus, William M.
Keenan, Daniel F.	Sullivan, David B.
Kelly, Shaun P.	Swan, Benjamin
Kennedy, Thomas P.	Teahan, Kathleen M.
Khan, Kay	Timilty, Walter F.
Knuuttila, Brian	Tobin, A. Stephen
Kocot, Peter V.	Toomey, Timothy J., Jr.
Koutoujian, Peter J.	Torrissi, David M.
Kujawski, Paul	Turkington, Eric
Kulik, Stephen	Vallee, James E.
Lantigua, William	Verga, Anthony J.
Larkin, Peter J.	Walrath, Patricia A.
Leary, James B.	Walsh, Martin J.
LeDuc, Stephen P.	Walsh, Steven Myles
Lepper, John A.	Webster, Daniel K.
Linsky, David Paul	Wolf, Alice K. — 131.
L'Italien, Barbara A.	

NAYS — (28).

*Senators.*

Barrios, Jarrett T. O'Leary, Robert A. — 3.  
Moore, Richard T.

*Representatives.*

Asselin, Christopher P.	Miceli, James R.
Atsalis, Demetrius J.	Nangle, David M.
Ayers, Bruce J.	Patrick, Matthew C.
Binienda, John J.	Pedone, Vincent A.
Canavan, Christine E.	Petrolati, Thomas M.
Casey, Paul C.	Pignatelli, Smitty William
Flynn, David L.	Reinstein, Kathi-Anne
Garry, Colleen M.	Spiliotis, Theodore C.
Goguen, Emile J.	Spiliotis, Joyce A.
Golden, Thomas A., Jr.	Travis, Philip
Greene, William G., Jr.	Wagner, Joseph F.
Hall, Geoffrey D.	Wallace, Brian P. — 25.
Koczera, Robert M.	

ABSENT OR NOT VOTING — (5).

*Senators.*

Brewer, Stephen M. Nuciforo, Andrea F., Jr. — 2.

*Representatives.*

George, Thomas N. Simmons, Mary Jane — 3.  
Rogeness, Mary S.

**The yeas and nays having been completed at nine minutes past two o'clock P.M., the motion prevailed.**

Without further action on the matters duly and constitutionally assigned for consideration, at ten minutes past two o'clock P.M., on motion of Mr. Havern, the Joint Session was recessed until Wednesday, May 12, 2004 at one o'clock P.M.

*Order.*

On motion of Mr. Finneran of Boston,—

*Ordered*, That when the House adjourns today, it adjourn to meet on Thursday next at eleven o'clock A.M.

Next  
sitting.

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At twenty-six minutes after two o'clock A.M., on motion of Mr. DiMasi of Boston (Mr. Correia of Fall River being in the Chair), the House adjourned, to meet on Thursday next at eleven o'clock A.M., in an Informal Session.



Next  
sitting.